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EWilliam
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Atty Docket No. MIC-001US1)

Serial No.: 09/487,558

Filed: 19 January 2000

Inventors: Busby et al

Title: METHODS FOR IMPROVING SECONDARY
METABOLITE PRODUCTION IN FUNGI

Group Art Unit: 1636

Before the Examiner: Davis, Katharine F.

Assistant Commissioner for Patents
Washington, D.C. 20231

accepted as copy
of original
COM=6/6/02
Walter L. Johnson

**APPLICANTS' REPLY PURSUANT TO 37 C.F.R. §1.116
TO THE FINAL OFFICE ACTION MAILED 6 MARCH 2002**

Hon. Assistant Commissioner for Patents:

This communication is responsive to the Final Office Action mailed 6 March 2002.
Please re-consider the above-identified application in view of the following remarks.

Remarks

Claims 1-28, 102 and 103 are currently pending. The only presently maintained rejections are under 35 U.S.C. §112, first paragraph.

Pages 2-6 focus primarily on the mechanisms of regulating secondary metabolism in fungi. The implications of this discussion are that an inventor must understand the mechanism of action of an invention in order to provide an adequate written description and/or to enable the invention. This, however, is contrary to well established law. As recently as 1996, the U.S. Supreme Court has stated "A claim covers and secures a process, a machine, a manufacture, a composition of matter, or a design, but never the function or result of either, nor the scientific explanation of their operation." *Markman v. Westview Instruments, Inc.*, 517 U.S. 370 (1996)(emphasis added). An inventor does not need to know or describe the mechanism of